

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.301 OF 2005

Shri.Shankar Balwant Shete

...Petitioner

V/s.

The Chief Officer,
Satara Municipal Council & Anr.

...Respondents

Ms.Aarti Bhide for Petitioner.

Mr.P.B. Shah for Respondent No.1.

Mr.P.S. Hingorani, APP for State.

CORAM : V.M. KANADE, J.

DATED : 17th AUGUST, 2007.

P.C:-

1. Heard learned counsel for the Petitioner, learned counsel for Respondent No.1 and learned APP for the State.

2. The Petitioner is a owner of a Bunglow at Satara. The Petitioner is challenging the order passed by 4th Additional Sessions Judge, Sessions Court dated 30/06/2004 in Criminal Revision Revision Application No.273/1995, whereby the order passed by the 2nd Joint Judicial Magistrate, First Class, Satara in House Tax Appeal No.340/1992, was confirmed and the Criminal Revision Application filed

by the Petitioner herein was dismissed. The Petitioner was issued two House Tax Bills by the Respondent No.1/Council, first one was House Tax Bill No.7933 dated 30/11/1991 for an amount of Rs.651.50 for the year 1991-1992 and second one was House Tax Bill No.14451 dated 24/01/1992 for an amount of Rs.1137.45. The Petitioner paid said amount on 5/3/1992 under protest and challenged validity and correctness of the two assessments by filing a House Tax Appeal No.340/1992 before 2nd Joint Judicial Magistrate, First Class, Satara U/s.169 of the Maharashtra Municipal Act, 1965.

3. It was contention of the Petitioner that the Annual Letting Value be fixed at Rs.2400/- as was assessed prior to the said bills and that revised Annual Letting Value @ Rs.5400/- be accordingly modified. The learned Magistrate partly allowed the appeal and fixed the Annual Letting Value at Rs.5270/-. Against this order, the Petitioner preferred a Revision Application No.273/1995 in the Sessions Court. However, said Revision Application was dismissed.

4. The learned counsel for the Petitioner submitted that while

deciding the Annual Letting Value of the suit property, Authorities had not considered Standard Rent of the suit property. Learned counsel further submitted that Authorities had not considered the Annual Letting Value of other properties which are similarly situated within the same area, which was at much lesser rate than that of the Petitioner. Learned counsel further submitted that deduction of 10% on the consolidated tax as was permitted by the Court below, was illegal and that he was entitled to deduction @ 30% on the Annual Letting Value.

5. It is not possible to accept the submissions of the learned counsel for the Petitioner. It is a well settled position in law that the Standard Rent is not a factor which has to be taken into consideration for the purpose of fixing the Annual Letting Value. In the present case, admittedly, no application for Standard Rent had been preferred by the tenant of the Petitioner which presupposes that he had no grievance about the rent which was fixed by the landlord and as such therefore, said rent will have to be treated as the Standard Rent. First submission made by the learned Counsel, therefore, cannot be accepted.

6. So far as second submission is concerned, the Apex Court in the case of Motichand Hirachand & Ors. V/s. Bombay Municipal Corporation reported in AIR 1968 SC 441 has held that income which could be yielded from the property was a relevant factor which had to be taken into consideration while calculating the Annual Letting Value.

7. In the present case, both the Courts below have noted that one room was in possession of the tenant and one room was used for his office purpose. In all there are seven rooms in the said premises and all the amenities are provided by the Council. Further, it is brought on record by the Council that the premises is near the public road and that local market, hospital, school and bus stop are near this property. It is obvious, therefore, that the said property is situated in a area which would yield income. Since no Standard Rent has been fixed by any Courts below, it is open for the Council to arrive at the figure of hypothetical rent. Both the Courts below considered all these aspects and dismissed appeals filed by the Petitioner. In my view, no case is made out by the Petitioner for interfering with the orders passed by both

the Court below. Writ Petition is dismissed accordingly.

V.M. KANADE, J.